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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF MARCH

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 13367 of 1993

Between:

M/s.Sudarshan Reddy & Co., Contractors Rep by L.Sudershan Reddy. S/o. Linga Reddy
LMD, Colony Karimnagar. R/o.Chityal Village , Nirmal Mandal
Adilabad Dist.

.... PETITIONER

AND

1 The Executive Engineer (I & PD)
CCD-II , Lower Maniar Dam Colony Karimnagar ,

Karimnagar dist.
2 Mandal Revenue Officer
Nirmal Mandal., Adilabad Dist.
3 V.Laxmaiah S/o. V.Ramaiah
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.
4 Peria Swamy S/o.Ponna Chetty
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.
5 Chennamma W/o.Ponna swamy
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.

....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue an appropriate writ , order or direction preferably in the nature of writ of Mandamus directing the Respondents 1 to 3 herein comply the order of the Hon'ble Court in CMA.No.512/1980 , Dt: 3-7-1987 and direct the Respondent No.1 to pay compensation to the respondents 4 and 5 and not proceed against the petitioner while declaring the issue of Demand Notice in File No.B/8512/1993 , Dt: 22-7-1993 by the 2nd respondent as illegal , void and without jurisdiction.

Counsel for the Petitioner:MR.C.R.PRATAP REDDY

Counsel for the Respondent No.: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

HONOURABLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO.13367 OF 1993

ORDER:

The present writ petition has been filed by the petitioner questioning the action of the respondents in issuing distraint order in proceedings B/8512/1993, dated 22-7-1993 by the 2nd respondent i.e., Mandal Revenue Officer, Nirmal, purported to be one under Section 8 of the Revenue Recovery Act.

The learned counsel for the petitioner has argued that in view of the death of one workman of Ramu who happened to be employee under one V.Laxmaiah, Sub contractor under the petitioner, parents of the deceased, have claimed compensation before the authority under the Workman Compensation Act, and the said claim was negatived by the Commissioner of Workmen's Compensation, Wanrangal, holding that the deceased was not a workman under the Workmen's Compensation Act, and it has also been held in the said proceedings in W.C.No.614 of 1978 dated 7-7-1980 that the parents of the deceased cannot claim the compensation. The said order has been questioned in A.A.O.No.512 of 1980 by the parents of the deceased and the learned single Judge of this Court has disposed of the said appeal on 3-7-1987, holding that the deceased was a workman under the said Laxmaiah, who happened to be sub contractor of the 2nd respondent therein and also further held as follows.

> "In view of the aforesaid decisions I hold that even though the deceased was a workman only under Lakshmaiah still, the dependants of the deceased can make a claim against the 1st respondent, who is the principal employer. This is because of the fact that Lakshmaiah was the sub-contractor of the 2nd respondent who was a contractor of the 1st respondent. I have already held that Lakshmaiah was not a seller of goods but was sub-contractor of the 2nd respondent. In that view of the matter, the 1st respondent is liable for the compensation amount."

It is made clear that the 1st respondent in the said A.A.O. is the Executive Engineer, COD, No.2, Lower Maniar Dam Colony, Karimanagar and 2nd respondent is M/s.Sudarshn Reddy, Contractor, Karimnagar, who is the present petitioner.

It is also made clear by the learned single Judge that the 1st respondent has to pay an amount of Rs.19,200/- per annum with interest at 12% from 12-10-1978. But, however, a contention has been raised by the 2nd respondent therein i.e., the present petitioner, that the father and mother of the deceased have not established that they are dependents of the deceased. But, however, the learned single Judge has rejected the said contention.

The present distraint order has been issued by the 2nd respondent in the present writ petition i.e., Mandal Revenue Officer, Nirmal, in pursuance of the proceedings of the Collector in Rc.No.As/5960 of 1993, dated 1-6-1993 claiming arrears of Rs.51,689/- from the petitioner herein, who happened to be the 2nd respondent in the said A.A.O, as per the High Court Order in A.A.O.No.512 of 1980, dated 3-7-1987. The above distraint order is questioned in the present writ petition.

The learned counsel for the petitioner also contended that the petitioner is not liable to pay the said amount, in view of the fact that the 1st respondent, who happened to the Executive Engineer, COD-II, Lower Maniar Dam Colony, Karimanagar, is only liable in view of the order of the learned single Judge of this Court, which has become final, therefore, the 1st respondent alone is responsible. He further contended that no prior notice has been issued to the petitioner before issuance of the distraint order and as such of the action of the respondents is in violation of principles and natural justice.

In reply, the learned Government Pleader appearing on behalf of the 1st respondent contended that it is the petitioner alone who is responsible for payment of compensation and 1st respondent is not at all responsible for payment.

I am not in agreement with such contention, in view of the observations made by the learned single Judge in A.A.O.No. 512 of 1980 where in the learned single Judge has made it clear that the 1st respondent who happened to be principal employer is responsible for payment of the compensation amount and the learned

single Judge has fixed the compensation Rs.19,200/- with an interest of 12% per annum from 12-10-1978.

But, however, the fact remains that no prior notice has been issued by the 2nd respondent-Mandal Revenue Officer, Nirmal before taking action under distraint order issued under Section 8 of the Revenue Recovery Act. This is a case where the parents of the deceased have deprived of the compensation of Rs.19,200/- together with interest at 12% per annum from 12-7-1978, as award in the said A.A.O. Therefore, it goes to show that the 2nd respondent, who has not gone into the full aspects of the matter, has chosen to issue distraint order to the person who has not been fastened with the liability of payment of the said compensation. Under the above circumstances and in view of the observations made by the learned single judge in the said A.A.O that the 1st respondent-Executive Engineer,COD, No.2, LMD Colony Karminagar has to the pay the amount, it is made clear that the 1st respondent herein, who happened to be the principal employer, is liable for the said payment. A duty is cast on the petitioner who has been issued with distraint order and who happened to be the contractor, to bring to the notice of the 2nd respondent M.R.O, Nirmal regarding the responsibility of the 1st respondent for payment of the compensation.

In view of the long delay in the matter and under the above circumstances, with out going into the merits and also the distraint order, a direction is issued to the petitioner to bring it to the notice of the Mandal Revenue Officer, Nirmal who is 2nd respondent herein, and also to the notice of the Executive Enginer, Karimnagar, the 1st respondent herein, regarding the observations made by the learned single Judge of this Court for payment of compensation Rs.19,200/- with interest at 12% per annum from 12-10-1978.

It is also further directed that the 1st respondent i.e., the Executive Engineer, COD, No.2 LMD Colony, Karimnagar District shall make necessary arrangements for effecting payment of an amount of Rs.19,200/- with interest at 12% per annum from 12-10-1978, as directed by this Court in A.A.O No.512 of 1990 dated 3-7-1987 to the parents of the deceased i.e., the respondents 4 and 5 herein on or before 30th June, 2004, if not already paid.

It is also made clear that the learned Government pleader for Irrigation Ms.Renuka shall get a copy of this order and send the same to the 1st respondent, so as to make the aforesaid payment to the parents of the deceased. For report of compliance, post on 16th July, 2004.

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10th March 2004.

Mrb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Executive Engineer (I & PD)
CCD-II , Lower Maniar Dam Colony Karimnagar ,

Karimnagar dist.
2 Mandal Revenue Officer
Nirmal Mandal., Adilabad Dist.
3 V.Laxmaiah S/o. V.Ramaiah
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.
4 Peria Swamy S/o.Ponna Chetty
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.
5 Chennamma W/o.Ponna swamy
R/o. LMD Colony Labour Camp Karimnagar , Karimnagar Dist.

(**1 TO 5 BY SPEED POST)**

6, MS.Renjuka, G.P for Irrigation, High court Buildings,

Hyderabad(OUT).

(By Spl. Messenger) with a direction to send this order to

the 1st respondent

7. One Spare Copy

8. One CC to C.R.Pratap Reddy, Advocate.